

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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FIDELITY & DEPOSIT COMPANY OF MARYLAND, etc.,

Plaintiff,

-against-

06 Civ. 7207 (LAK)

MARIO TOLISANO, et al.,

Defendants.
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ORDER

LEWIS A. KAPLAN, *District Judge*.

This case originally was filed under 06 Civ. 5810.

On September 5, 2006, the Court entered an order in that action noting that the complaint did not sufficiently allege diversity jurisdiction because it failed to allege the citizenship of natural persons. The order (docket item 4) cited *Sun Printing & Publishing Assen v. Edwards*, 194 U.S. 377 (1904), and *Leveraged Leasing Administration Corp. v. PacifiCorp Capital, Inc.*, 87 F.3d 44 (2d Cir. 1996), both of which stand for the proposition that an allegation of residence is insufficient. It stated that the action would be dismissed absent the filing, on or before September 15, 2006, of an amended complaint curing the defect.

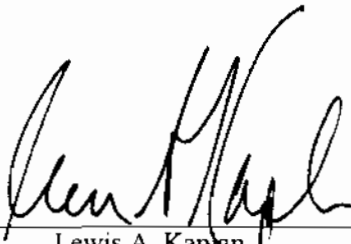
Plaintiff filed an amended complaint that failed to cure that defect. Accordingly, by order dated September 15, 2006, the Court dismissed the action for lack of subject matter jurisdiction. That order noted also that the amended complaint did not adequately allege the citizenship of the plaintiff, as it referred only to its maintenance of "a place of business" in Pennsylvania without alleging the state in which it maintains its principal place of business.

Plaintiff now has refiled. The complaint in this action now alleges the citizenship of the defendants and the principal place of business of the plaintiff. It fails, however, to allege the plaintiff's state of incorporation. Accordingly, the jurisdictional alleges are insufficient.

Absent the filing, on or before September 29, 2006, of an amended complaint adequately alleging the existence of subject matter jurisdiction, the action will be dismissed. In view of the past failures to cure these very simple deficiencies (all that is required is copying the forms attached to the federal rules), no further opportunity to amend will be granted.

SO ORDERED.

Dated: September 22, 2006



Lewis A. Kaplan
United States District Judge